IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

CONTEMPT PETITION NO.282 OF 2007

Kolhapur District Central
Co-operative Bank Ltd. ...Petitioner.

vs.

1.Mr.Johny Joseph & others. ...Respondents.

Mr.M.L.Patil, for Petitioner.

Mrs.S.S.Bhende, A.G.P. for State.

CORAM: D.K.DESHMUKH J.

DATED: 29th October,2007.

P.C.:-

1. By this contempt petition, the petitioner alleges that the State of Maharashtra and its officers have willfully disobeyed the order made by this Court on 23.3.2007. That order reads as under:-

> " Ordinarily, we would not have entertained this petition as it is purely in the realm of contract. The Petitioner however, states that considering the unconditional deed of

> guarantee by Respondent no.1 in their favour and the representations made by them, the respondents should at least decide their representations. The first of such representation was of 15.12.2006 and the last on 13.2.2007. Considering that, we direct the respondent no.1 to dispose of the representation at any rate not latter than three months from today."

Perusal of this order shows that the Court has noted that the subject matter of the petition is purely in the realm of contract, but the Court has directed the State Government to consider the representations and to dispose it of within three months from the date of the order. Because, according to the petitioner, the Government did not dispose of that representations, this contempt petition is filed. The subject matter of the petition is a contract entered into between the petitioner and the Government which is styled as deeds of guarantee dated 30.3.2005. Clause 11 of that contract reads as under:-

> "11. Any money or moneys hereby guaranteed shall become due and payable to the Bank after notice requiring payment thereof has been served on the Guarantor by or on behalf of the Bank in either of the manners provided in

these presents.”

It is clear that the method of invoking the guarantee is by giving notice by the petitioner-bank to the Government. Clause 14 lays down that the Courts at Mumbai have jurisdiction for enforcing the guarantee. Therefore, if after giving notice the guaranteed amount is not paid, the remedy was to file a civil suit for a decree. There is no question of State Government deciding any representation and there is absolutely no question that the State Government or any of its officers willfully disobeying the oder of this Court by not deciding those representations. The matter is purely in the realm of contract. The petitioner has misused the writ jurisdiction of this Court and now the contempt jurisdiction is misused. The contempt petition is therefore, disposed of.

(D.K.DESHMUKH, J.)